

# HOUSE BILL REPORT

## SHB 1379

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### As Amended by the Senate

**Title:** An act relating to the liquor control board fully implementing a retail business plan.

**Brief Description:** Requiring the liquor control board to implement a retail business plan to improve efficiency and increase revenue.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Grant, Armstrong, Springer, Hinkle, Fromhold, Walsh, Upthegrove, Bailey, Clibborn, Chase and Simpson).

#### **Brief History:**

##### **Committee Activity:**

Commerce & Labor: 2/2/05, 2/21/05 [DP];

Appropriations: 3/2/05, 3/5/05 [DPS].

##### **Floor Activity:**

Passed House: 3/9/05, 62-34.

Senate Amended.

Passed Senate: 4/6/05, 31-17.

#### **Brief Summary of Substitute Bill**

- Directs the Liquor Control Board to implement Sunday sales in selected liquor stores.
- Directs the Liquor Control Board to implement in-store liquor merchandising.

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#### **HOUSE COMMITTEE ON COMMERCE & LABOR**

**Majority Report:** Do pass. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins and McCoy.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; and Crouse.

**Staff:** Rebekah Ward (786-7106).

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#### **HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Anderson,

Assistant Ranking Minority Member; Armstrong, Bailey, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, McDermott, McIntire, Schual-Berke and Walsh.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Alexander, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Buri, Clements, Linville, Miloscia, Pearson, Priest and Talcott.

**Staff:** Owen Rowe (786-7391).

**Background:**

Washington is one of 14 states that controls the retail sale of alcohol by using state-owned and contract liquor stores to sell spirits, wine, and beer. The Liquor Control Board (Board) is responsible for controlling the distribution and sale of alcohol and licenses to retailers to sell beer and wine for off-premises consumption.

The Board has the authority to manage the liquor distribution and retail systems, including the authority to determine the number of liquor stores and their hours of operation. There are 161 state-owned liquor stores and 154 contract liquor stores. The Board determines the hours of operation for liquor stores based on the cost of operations and available funds.

State law provides that state-owned and contract liquor stores may not be open on Sunday, and that the Board may not advertise liquor.

State liquor stores generate over \$612 million a year in sales. State and local governments receive revenue from liquor store profits and liquor taxes. In fiscal year 2004, the Board contributed \$250 million to state and local governments.

**Summary of Substitute Bill:**

The Liquor Control Board (Board) is directed: (1) to expand store operations to include Sunday sales in selected liquor stores; and (2) to implement a plan of in-store liquor merchandising.

Sunday Sales

The prohibition on Sunday sales is eliminated.

The Board is required to expand store operations to include the Sunday opening of at least 20 state-operated liquor stores by September 1, 2005. The Board must select stores expected to gross the most revenues on Sunday. The stores must not be open before noon on Sundays. Contract liquor stores are permitted, but not required to open on Sunday.

The Board may retain a consultant to help determine appropriate stores for the program and monitor the results of the program. The Board must track sales and expenses at stores open on Sunday in comparison to before opening on Sunday, as well as the impact on sales at nearby liquor stores. The Board must report this information to the Legislature by January 31, 2007.

Before determining which state liquor stores will open on Sunday and before permitting contract liquor stores to open on Sunday, the Board must give consideration to the location of the stores with respect to the proximity of places of worship, schools, and public institutions. The Board also must give notice to places of worship, schools, and public institutions within 500 feet of such stores.

Employees at liquor stores, including contract stores, may not be required to work on their sabbath for the purpose of selling liquor, if doing so would violate their religious beliefs.

#### Merchandising

The prohibition on liquor advertising by the Board is modified. The prohibition does not apply to in-store liquor merchandising.

The Board must implement an in-store liquor merchandising plan, including point-of-sale advertising and promotional displays. The Board is also directed to implement a plan for in-store merchandising of brands, which may not include provisions for selling liquor-related items not previously authorized.

**Rules Authority:** The bill contains provisions requiring the Board to make rules concerning advertising of liquor.

#### **EFFECT OF SENATE AMENDMENT(S):**

Requires state-operated stores which have been selected to operate for retail business on Sundays to be open a minimum of five hours. The substitute House bill limited the hours of operation for Sunday liquor sales to after 12:00 p.m. on Sundays. Requires the Board in determining which state liquor stores will be open on Sundays, to give due consideration not only to the location of liquor stores with respect to the proximity of places of worship, schools, and public institutions, and written notice by certified mail of the proposed Sunday opening, but the Board must also give due consideration to motor vehicle accident data in the proximity of the liquor store.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (Commerce & Labor) This bill has been brought before the committee three times in the last three years. The difference between this year and last is the agency contract store discretion in terms of where the pilot stores will be located. The pilot stores would now be located based on an impact study estimating where the highest grossing stores are located (this is likely to be in large urban areas).

There were Sunday sales permitted in 21 states the first year this bill was proposed in Washington, 27 states last year, and 32 states this year (the most recent state to enact a Sunday sale law was Idaho). Oregon enacted a Sunday sales provision in their law in 2003 and saw an

estimated 6 percent growth in sales and as much as 20 percent in others, and a high grossing impact study was not even utilized in determining where to locate the stores initially as will be the case in Washington. Washington estimates that there will be a 2.5 percent growth in the first year and a 5 percent growth in subsequent years. Last year, wine pricing was a concern that kept this bill from passing, but this has since been resolved. The proximity to liquor stores and retail outlets show that revenues actually go up, and the second busiest retail shopping day of the week in Washington is Sunday. Alcohol can already be purchased in taverns and bars on Sundays. This legislation is a reasonable measure given that Oregon tracked a store at the Portland/Vancouver border east of the Portland Airport and found that the majority of the customers that came in were Washingtonians. The top 10 producing stores in the state are located in the Vancouver area, and this bill would create a win/win situation for state revenues.

The Liquor Control Board is neutral on the issue of Sunday sales. There is not however neutrality on the part of the private retail sector.

The hours of operation for the Sunday sales stores would be 12:00 to 5:00 pm, and this would mean a 7 hour shift for employees. The fiscal note includes the estimate for time and a half for employees who work on Sundays. There is an anticipation that many private stores would choose not to open another day and this would be voluntary.

(Neutral) The Liquor control board is neutral on this bill.

**Testimony For:** (Appropriations) All operational issues have been resolved within the agency in respect to Sunday sales. In addition to revenue generation for state government, there is a positive revenue impact to local governments of \$2 million the first year and \$3 million the second. In total, for the 05-07 biennium it is an additional \$9.5 million, and for the 07-09 biennium it is an additional \$12.2 million. These estimates are based on a conservative estimate by the Liquor Control Board (Board).

(Neutral) What is missing from last year's fiscal note is the revenues to the Department of Revenue. Last year there was an assumption in the fiscal note of 2 percent growth. This year's fiscal note assumes 3.5 percent growth the first year and 5 percent growth the subsequent years. Oregon has averaged 8 percent growth and Pennsylvania has experienced even greater growth in sales. The Board's estimate uses data from the 20 highest grossing stores in Washington. The estimate of 3.5 percent growth is conservative and it could likely be more.

**Testimony Against:** (Commerce & Labor) The wine prices in liquor stores are 12 percent below supermarket prices, and this prompted an across the board price comparative reduction. The private retailers want this wine price reduction from the Nielsen data put in statute.

The data from the Sunday sales in Oregon is not accurate, as a large percentage of the revenue was diverted to problem gambling. Seven days for sales is not necessary. There is a concern by neighborhood stores that Sunday sales in liquor stores will decrease the ability of the smaller stores to sell similar products (i.e., wine purchases advantage), and their sales bases

are already eroding, Sunday sales will condition customers to buy from state stores on Sundays and will create a monopoly on liquor sales and thereby interfere with free enterprise. Additionally, there was concern over the threat to private sector jobs which might increase with competitive pressures and a tax loss that could result if there is a business and occupation tax decrease from decreases in private sales. There was some concern expressed over the lack of a small business impact study prior to implementation.

**Testimony Against:** (Appropriations) This is an issue of private vs. public competition. The Board is able to buy wine directly from the manufacturer, and retail stores have to buy through a beer and wine wholesaler. The Board automatically has a competitive advantage over wine sales. There is no need for liquor stores to be open one more day to have a public entity that regulates the industry to compete with convenience stores. The fiscal note from last year showed a gain of \$344,000 for fiscal year 2006 and a gain of \$394,000 for fiscal year 2007. This is a big leap from last year's to this year's fiscal note. Pennsylvania experienced a 17.5 percent increase in the first 25 weeks of Sunday sales and that number leveled off to 5.6 percent. The fiscal note does not indicate the impact to licensees. There will be an impact on licensees through a decrease in demand for alcoholic beverages at bars, restaurants, taverns, grocery stores, hotels, and others. The Board shows an increase in revenue but fails to show a decrease in licensee sales in their fiscal note.

**Persons Testifying:** (Commerce & Labor) (In support) Bob Higley, Washington Evangelicals for Responsible Government.; Dave Ducharme, Distilled Spirits Council of the United States.

(Neutral) Rick Garza, Liquor Control Board.

(Opposed) Clif Finch, Washington Food Industry; Don Rhoads, Washington Association of Neighborhood Stores; Victor Boules Jr., Starvini Sam's Mini Mart; Richard Sollom, business owner; TK Bentler, Washington Association of Neighborhood Stores; Kevin Yoo, Korean-American Grocers Association of Greater Washington.

**Persons Testifying:** (Appropriations) (In support) Jim Halstrom, Distilled Spirits Council of the US; and Bill Stauffacher, Distillery Representatives Association of Washington.

(Opposed) T. K. Bentler, Washington Association of Neighborhood Stores.

(Neutral) Rick Garza, Liquor Control Board.

**Persons Signed In To Testify But Not Testifying:** (Commerce & Labor) None.

**Persons Signed In To Testify But Not Testifying:** (Appropriations) None.